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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,764	02/04/2004	Michael Hogendijk	NOCO 1004-1	5704
22470	7590	09/18/2008	EXAMINER	
HAYNES BEFFEL & WOLFELD LLP			BUI, VY Q	
P O BOX 366			ART UNIT	PAPER NUMBER
HALF MOON BAY, CA 94019			3773	
			MAIL DATE	DELIVERY MODE
			09/18/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/772,764	HOGENDIJK ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vy Q. Bui	3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/25/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

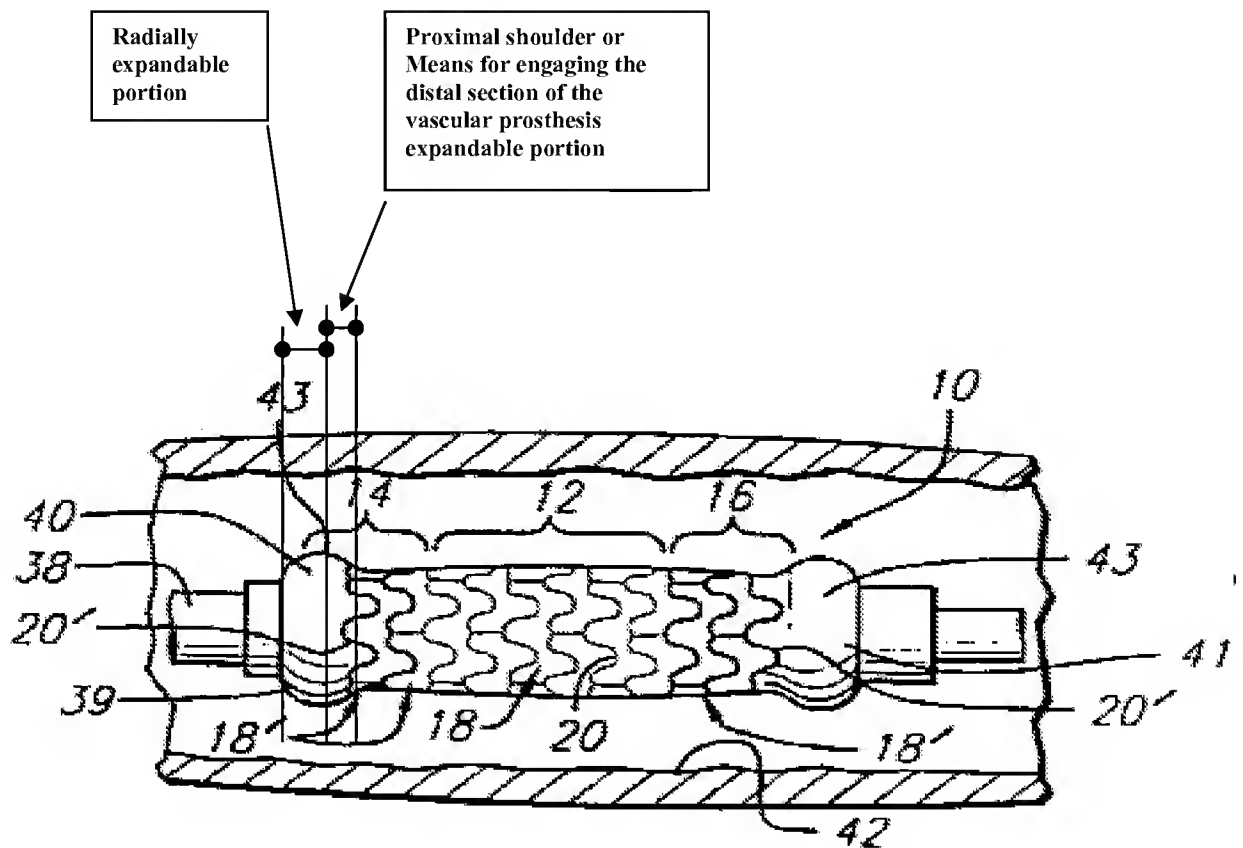
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Limon-6,273,910.

As to claims 1-8, 10-15, Limon-'910 (Figs. 1, 2 and 10; col. 8, lines 36-53) discloses a balloon catheter for an angioplasty procedure comprising elongated member 38, balloon 40 having ridges/collards/polymer layers/shoulders/raised features 43 as means for engaging the distal section of a vascular prosthesis and sheath 46 substantially as recited in the claims.

Notice that the limitation "a radially expandable portion" as recited in independent claims 1 and 11 only requires "a portion" and not "a whole length radially expandable" of the balloon. Therefore, Limon-'910's Fig. 10 reads on the claims because Limon-'910's Fig. 10 includes "a radially expandable portion" and "proximal shoulder or means for engaging the distal section of the vascular prosthesis" as shown below:



Limon-'910's Fig. 10

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Limon-6,273,910.

Limon-'910 discloses substantially the claimed invention, except for radiopaque markers positioned as claimed. However, providing radiopaque markers to a catheter for monitoring the operation of the catheter in a patient body is well known in the art. It would have been obvious to one of ordinary skill in the art to provide radiopaque markers as claimed for monitoring the operation of the catheter in a patient body.

***Response to Arguments***

Applicant's arguments filed 5/27/2008 have been fully considered but they are not persuasive. The Applicant (paper 5/27/2008, Remarks, page 5) asserted that:

a. As to independent claim 1, the claim includes the limitation "engaging means is affixed at a position **proximal** of the expandable portion of the balloon" and Limon-'910 does not teach this limitation.

However, recitation "a radially expandable portion" in claim 1 is broad and only requires any portion of the balloon which is radially expandable. Limon-'910's Fig. 10 above show at least one "radially expandable portion" of balloon 40 that meets this limitation in the claim.

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b. . As to independent claim 11, the claim further requires that "the polymer layer is affixed **directly to** the elongated member at a position proximal of the balloon".

However, the claim does not require that the proximal shoulder or means for engaging the distal section of the vascular prosthesis is **not radially expandable and different** from the radially expandable portion. Therefore, it is reasonable to consider that these two components are the same and are directly affixed to elongated member 38 as shown in Limon-'910's Fig. 10.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/  
Primary Examiner, Art Unit 3773